

आयकर अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर

**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCHE, INDORE**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.338/Ind/2017  
Assessment Year: 2013-14**

M/s. Kohinoor Educational Services P. Ltd. NH-12, Jaipur Road, Thana, Bhopal	<b>बनाम/</b> Vs.	ACIT-2(1), Bhopal
(Appellant)		(Revenue )
P.A. No.AACCK4143P		

Appellant by	Shri S.S. Deshpande, CA
Respondent by	Shri V.J. Voricha, Sr. DR
<b>Date of Hearing:</b>	<b>24.07.2018</b>
<b>Date of Pronouncement:</b>	<b>26.07.2018</b>

**आदेश / O R D E R**

**PER KUL BHARAT, J.M:**

This appeal is filed by the assessee against the order of Commissioner of Income Tax (appeals)-1, Bhopal, dated

24.03.2017. The assessee has raised following grounds of appeal:

1. *The order of the Ld. CIT(A) is bad in law and hence be quashed.*
2. *The Ld. CIT(A) has erred in maintaining the addition of Rs.1,55,00,000/- being disallowance u/s 40(a)(ia) on alleged rent payable to Airport Authority of India.*
3. *The payment was made to the Government Body which is assessed to tax and the amounts are verifiable, and the proviso to section 40(a)(ia) would be applicable.*
4. *The provisions of section 194I are not applicable in the instant case and as such the disallowance is uncalled for.*
5. *The addition for Rs.1,55,00,000/- may please be deleted.”*

2. Briefly stated facts are that the case of the assessee was picked up for scrutiny assessment and the assessment u/s 143(3) of the Income Tax Act 1961(hereinafter called as ‘the Act’) was framed vide order dated 07.03.2016 while framing the assessment, the assessing officer made addition of Rs.1,55,00,000/- by invoking provisions of section 40(a)(ia) on account of non deduction of tax at source.

3. Aggrieved by this the assessee preferred an appeal before the Ld. CIT(A) who after considering the submissions dismissed the appeal. Now the assessee is in appeal before this Tribunal.

4. The only effective ground is disallowance made u/s 40(a)(ia) on the rent paid to Airport Authority of India.

5. At the outset, the Ld. Counsel for the assessee Shri S. S. Deshpande, submitted that authorities below were not justified in making the disallowance. He submitted that payee is a Government organization and has duly disclosed this payment in their receipts therefore, the addition made at the hands of the assessee be deleted.

6. He further submitted that the issue may be restored to the AO for verification whether Airport Authority of India has disclosed in their return of income or not. The Ld. Departmental Representative (DR) submitted that he has no objection at the issue is restored to the extent of verification by the AO whether the payment made by the assessee has been disclosed in the return of income of the payee.

7. We have heard the rival contentions and perused material on record. After considering the facts of the present case, we deem it proper to restore this issue to the file of the AO for verification in respect of the payment made by the assessee whether such receipts have been disclosed by the payee in its return of income. The grounds raised in this appeal are allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

*Order was pronounced in the open court on 26.07.2018.*

Sd/-  
(MANISH BORAD)  
ACCOUNTANT MEMBER

Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER

Indore; दिनांक Dated : 26/ 07/2018

*Patel. P.S./नि.स.*

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order  
**Private Secretary/DDO, Indore**